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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/717,874

11/20/2003

Charles E. Pfund

9364

7590

10/20/2004

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EXAMINER

MAI, HUY KIM

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/717,874

Applicant(s)

PFUND, CHARLES E.

Examiner

Huy K. Mai

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7 and 8 is/are rejected.
- 7) ☒ Claim(s) 5, 6 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Oath/Declaration***

1. The declaration filed on Nov. 20, 2003 is acceptable.

### ***Claim Objections***

2. Claims 5,6 and 9 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitations “the polarizer lenses are mounted on a clip-on bracket” in claims 5 and 6 does not further limit the subject matter of claim 4. It appears that the applicant removes the polarizer lenses in the pair of eyeglasses, and then mounts the polarizer lenses on a clip-on bracket. The limitations “the polarizer lenses on a clip-on bracket” in claims 4 do not further limit the subject matter “a pair of eyeglasses having linear polarizer lenses. Similarly, the limitations in claim 9 do not further limit the subject matter in claim 8.

3. Claim 8 is objected to because of the following informalities: Claim 8 is not in format of claim as stated in 37 CFR 1.75 (e) “any independent claim should contain in the following order. “1) a preamble comprising a general description of all the elements or steps of the claimed combination ...”. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase “the planes of polarization” (claim 1, line 3) has no antecedent basis. The feature “the planes of polarization” in claim 1 is undefined. The limitations in claim 3 are unclear because of the step of tilting the head of the golfer. Who performs the operation of tilting the head of the golfer? It is agreed that the golfer tilts his head toward the right or left shoulder to sweep 45 angle for each direction of head tilt between approximately horizontal and vertical. However, it is not understood as what “to sweep the 45 angle of transmission of polarized light for each direction of head tilt?”

The remaining claims are dependent upon the above rejected base claim and thus inherit the deficiency thereof.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 4,7,8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pavelle et al (5,414,476).

The limitations in claims 3,7,8 are shown in Pavelle et al's Figs. 2-5, columns 3-4. Pavelle et al discloses a pair of eyeglasses comprising a frame 6 for mounting two lenses 7,8 to be supported for normal vision by both eyes through the respective lenses, the frame having two circular rims

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for supporting each lens and having a groove around the inner circumference of said rims, a pair of linear polarizer circular lenses 7,8 mounted respectively in the grooves of said rims and rotatable therein to approximately orient the axes of maximum transmission through said lenses between vertical and horizontal wherein the planes of transmission of each lens being approximately 45 to horizontal and approximately complementary.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavelle et al.

Regarding method claims 1-2, it should be noted that although claims 1 and 2 "method claims", the method steps consist of the broad step of "binocular viewing" and therefore these steps would be inherently satisfied by the apparatus of the Pavelle et al reference.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Mai whose telephone number is (571) 272-2334. The examiner can normally be reached on M-F (8:00 a.m.-4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1562.

A handwritten signature in black ink, appearing to read "Huy Mai".

Huy Mai  
Primary Examiner  
Art Unit 2873

HKM/  
October 18, 2004